

The opinion in support of the decision being entered today was *not* written for publication and is *not* binding precedent of the Board.

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

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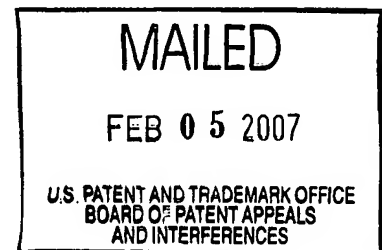
Ex Parte JUAN-PICR ANTONIO SPAMPINATO and PETER OSTAFICHUK

Appeal No. 2006-3429  
Application No. 10/797,600

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ON BRIEF

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Before HAIRSTON, RUGGIERO and LUCAS, Administrative Patent Judges.

HAIRSTON, Administrative Patent Judge.

**DECISION ON APPEAL**

This is an appeal from the final rejection of claims 10 through 12, 14 through 17 and 34 through 38.

The disclosed invention relates to a testing apparatus for a game ball.

Claim 10 is illustrative of the claimed invention, and it reads as follows:

10. A testing apparatus for a game ball, the testing apparatus comprising:

a rotating element with a first end, a second end, and a longitudinal axis that extends through the first end and the second end, the rotating element being rotatable about the longitudinal axis;

a mount located proximal the first end of the rotating element and configured to secure to the game ball, the mount being rotatable with the rotating element about the longitudinal axis;

an airfoil extending around the rotating element, the airfoil having a rounded leading edge and a tapered trailing edge; and

a sensor that detects forces upon the game ball in a first direction and a second direction, the first direction corresponding with a direction between the leading edge and the trailing edge, and the second direction being orthogonal to both the first direction and the longitudinal axis.

The references relied on by the examiner as evidence of unpatentability are:

Holderer	US 3,306,101	Feb. 28, 1967
Meyer	US 4,501,214	Feb. 26, 1985
Demay	US 6,571,618	June 3, 2003

Bearman, *Golf Ball Aerodynamics*, Aeronautical Quarterly, 27, 112-122 (1976).

Mehta, *The aerodynamics of a tennis ball*, Sports Engineering 4, 177-189 (2001).

Claims 10 through 12, 14, 16 and 17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Demay in view of Holderer, Meyer and Mehta.

Claim 15 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Demay in view of Holderer, Meyer, Mehta and Bearman.

Claims 34 and 35 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Demay in view of Holderer and Meyer.

Claim 36 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Demay in view of Holderer, Meyer and Bearman.

Claims 37 and 38 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Demay in view of Holderer, Meyer and Mehta.

Reference is made to the briefs and the answer for the respective positions of the appellants and the examiner.

### OPINION

We have carefully considered the entire record before us, and we will reverse the obviousness rejections of claims 10 through 12, 14 through 17 and 34 through 38.

Appellants argue *inter alia* that none of the applied prior art discloses “(a) an airfoil or (b) a rounded leading edge and a tapered trailing edge” (brief, page 4).

We agree with the examiner’s argument (answer, page 4) that Demay describes a streamlined casing 44 that functions as an airfoil (Figure 4). The airfoil described by Demay does not, however, have “a rounded leading edge and a tapered trailing edge” as set forth in the claims on appeal.

Holderer describes a sensor used on a model undergoing tests in a wind tunnel (column 1, lines 66 and 67). The claimed “rounded leading edge and tapered trailing edge” airfoil is not described in Holderer.

Meyer describes a mast 1 for a sail (Figure 1 and 2). The mast has both a rounded leading edge and a rounded trailing edge (Figures 3 through 5).

The reference to Mehta was relied on by the examiner for a teaching of a motor for a rotating mount, and not for a teaching of an airfoil (page 180).

The stroboscope/tachometer teachings of Bearman are not directed to an airfoil of the type set forth in the claims on appeal (page 114).

Appeal No. 2006-3429  
Application No. 10/797,600

In summary, the obviousness rejections of claims 10 through 12, 14 through 17 and 34 through 38 are reversed because we agree with the appellants' argument (brief, page 6) that the examiner has resorted to impermissible hindsight to demonstrate the obviousness of the claims on appeal.

#### DECISION


The decision of the examiner rejecting claims 10 through 12, 14 through 17 and 34 through 38 under 35 U.S.C. § 103(a) is reversed.

Appeal No. 2006-3429  
Application No. 10/797,600

REVERSED

  
KENNETH W. HAIRSTON  
Administrative Patent Judge

  
JOSEPH F. RUGGIERO  
Administrative Patent Judge

  
JAY P. LUCAS  
Administrative Patent Judge

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Appeal No. 2006-3429  
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